GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:3426
ANSWERED ON:23.12.2008
INDO-SWISS AGREEMENT
Gehlot Shri Thaawar Chand

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether any Indo-Swiss agreement has been signed recently;

(b) if so, the details thereof;

(c) whether Novartis had challenged the Indian Patents Law;

(d) if so, the manner in which the said law was challenged along with the date when the case was filed;

(e) the details of the Novartis case and the action taken by the Government in this regard; and

(f) the reasons for the dispute along with the present status of the case?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY(SHRI ASHWANI KUMAR)

(a) & (b): Yes Sir. A Memorandum of Understanding (MoU) was signed between the Ministry of Commerce and Industry and the Federal Department of Economic Affairs of Switzerland on Intellectual Property on 7th August, 2007 for cooperation in the field of intellectual property rights. The text of the MoU is available on the website of the Department of Industrial Policy & Promotion, that is, http://www.dipp.nic.in.

(c) to (f) : M/s Novartis AG, Switzerland and its Indian subsidiary, M/s Novartis India Ltd., had filed two writ petitions before the High Court of Judicature at Madras on 19th May, 2006, challenging the constitutional validity of Section 3 (d) of the Patents Act, 1970 regarding certain discoveries not being inventions within the meaning of the Act. The Government defended the case. On 6th August, 2007, a division Bench held section 3 (d) as constitutionally valid.

M/s Novartis had also filed five writ petitions in the High Court of Judicature at Madras, challenging the order of the Controller of Patents rejecting its patent application for the drug Imatinib Mesylate (known as Glivec), used for treatment of cancer. Consequent to the operationalisation of the Intellectual Property Appellate Board (IPAB) for patent appeals, the High Court had transferred the writ petitions as appeals to the IPAB. These appeals are pending before the IPAB.